

## Josh Bernstein, P.C.

### Civil Rights & Employment Law

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December 2, 2024

**RE: Request for Brief Adjournment of the Initial Conference and  
Leave to Cure Minor Collective Notice Issues (On Consent)**

The Honorable Sarah L. Cave  
United States District Court, Southern District of New York  
Daniel Patrick Moynihan Courthouse  
500 Pearl St., Room 1670  
New York, NY 10007

*Daniel Abbott, et al. v. Comme des Garçons, Ltd., et al.*, Index No. 21 cv 4929

Judge Cave,

I represent Plaintiffs Daniel Abbott et. al. in the above-captioned matter, and write with the opposing parties' consent to raise three minor issues.

By Order of November 19, 2024, your Honor set an Initial Conference date of January 27, 2025. The undersigned will be out of town from January 17, 2025-February 2, 2025, and accordingly respectfully requests that the Court adjourn the hearing to the following week or to a different date convenient to the Court.

Separately, there have been two minor issues with the notice issued to putative collective members that the parties have agreed upon a cure.

It has come to the undersigned's attention that the service utilized to issue the text message notice cannot receive images, meaning that if a putative member of the collective responded to the text by signing the notice and consent form and texting it back, it has not been received. Accordingly, Plaintiffs (with Defendants' consent) request that the Court authorize Plaintiffs to send a text message to the putative members of the collective on the same date the Court-approved mail reminder will be sent, consisting of the verbatim text of the mail reminder followed by the sentence: "Please note, this phone number cannot receive images or files. If you wish to join the collective, you must complete a Consent to Join form and mail, fax, or email it to the address(es) or fax number above".

Additionally, a few of the mail notices have been returned to sender. Accordingly, the parties have agreed and Plaintiffs respectfully request that the Court authorize Plaintiffs to send an email to those individuals for whom the mailing has been returned to sender with the verbatim text of the Court-approved mail reminder referenced above, plus the initial mail notice as an attachment and a link to the url of the notice.

Thank you for your attention to this matter.

Very truly yours,

/s/

Joshua Alexander Bernstein

The Court is in receipt of Plaintiffs' Letter-Motion (ECF No. 155 (the "Letter-Motion")) seeking (1) adjournment of the Initial Case Management Conference currently scheduled for Monday, January 27, 2025 (the "ICMC"); and (2) permission to contact putative members of the collective for whom they have received returned mail and in regard to its messaging service's inability to receive images. The Letter-Motion is GRANTED, as follows:

1. The ICMC is ADJOURNED to **Monday, February 10, 2025 at 10:00 a.m.** The ICMC will be held in Courtroom 18A, 500 Pearl Street, New York, New York. The parties shall submit a proposed case management plan by **Monday, February 3, 2025**. A template is available at <https://www.nysd.uscourts.gov/hon-sarah-l-cave>.
2. Plaintiffs are authorized to contact putative members of the collective in the manner identified in the Letter-Motion.

The Clerk of Court is respectfully directed to close ECF No. 155.

SO ORDERED. 12/3/2024

  
SARAH L. CAVE  
United States Magistrate Judge